

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA
COLUMBIA DIVISION

Gary Washington,)	C/A No.: 3:20-4056-MGL-SVH
)	
Plaintiff,)	
)	
vs.)	
)	ORDER
Continental Tires the Americas,)	
LLC,)	
)	
Defendant.)	
)	

This matter comes before the court on the failure of Plaintiff's counsel to file a response to Defendant's motion for summary judgment. The deadline for the response was July 29, 2022. On August 2, 2022, the court emailed all counsel of record noting that no response had been filed and inquiring if the matter had settled. Defense counsel Meredith A. Pinson ("Defense Counsel") responded in relevant part:

The matter has not settled. On July 27, counsel for Plaintiff asked if Continental would consent to a motion for extension of time to submit a response in opposition to Continental's motion for summary judgment filed on July 15 pursuant to the Fourth Amended Scheduling Order. On Saturday July 30, Plaintiff's counsel circulated a draft motion to extend for review, to which we provided comments yesterday morning.

I am adding another email address utilized by Plaintiff's counsel, as it seems Ms. Robinson may be having some issues receiving emails at the address on file with the Court.

Pro Hac Vice counsel for Plaintiff, Amber Robinson (“PHV counsel”), responded confirming receipt only. However, PHV counsel emailed the case manager indicating Plaintiff’s Local Counsel, William Runyon (“Local Counsel”), was in the hospital and requesting the Clerk of Court file a motion for an extension of time. Out of an abundance of caution, the Clerk’s office filed the motion with the email attached. [ECF No. 64]. The court granted the requested extension and permitted Plaintiff until August 8, 2022, to file a response. [ECF No. 65].

No response was filed on August 8, 2022, but Plaintiff personally delivered a copy of a response to the Clerk’s office. Because the Clerk of Court is not authorized to accept filings from individuals represented by counsel, the response was not filed, as PHV counsel had previously been informed. The Clerk’s office contacted PHV counsel to again notify her that the Clerk was unable to accept a filing from a represented individual.

On August 11, 2022, Defense Counsel emailed chambers, copying all parties, and stated

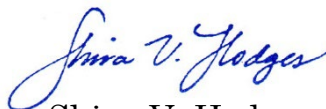
We have not been served with a response in opposition to Continental’s motion for summary judgment, nor have we received any notification of a filing with or from the Court. Plaintiff’s counsel has suggested that there has been some attempt to file a response brief but has not provided us with a copy of any such document. Unless we hear something from you or the Court otherwise, it is Continental’s position that plaintiff has failed to file or serve a timely response in opposition to Continental’s motion for summary judgment.

Roughly two hours later, chambers staff received an email containing only an attachment labeled “Gary Washington Response August 11, 2022” from the email address mtrunyon10@gmail.com without copying any counsel. Without opening the attachment, chambers staff replied only that anything requiring filing should be filed through CM/ECF. Local Counsel then called the Clerk of Court and asked for instructions on how to file on CM/ECF.

Out of an abundance of caution and recognizing the preference to adjudicate matters on the merits, Plaintiff is permitted until **Tuesday, August 16, 2022**, to file response through qualified counsel admitted to practice in the District of South Carolina and in compliance with the Federal Rules of Civil Procedure, Local Civil Rules, and Electronic Case Filing Policies and Procedures. No further extensions will be granted. Plaintiff and his counsel are reminded that they should not communicate ex parte with the court, whether by email or by Plaintiff appearing pro se.

IT IS SO ORDERED.

August 11, 2022
Columbia, South Carolina



Shiva V. Hodges
United States Magistrate Judge